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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,378	10/02/2003	Philip T. Ward	30859 CNT1	4032
23589	7590	04/20/2006	EXAMINER	
HOVEY WILLIAMS LLP 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/678,378	Applicant(s) WARD, PHILIP T.	
	Examiner Chi Q Nguyen	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-11,14-16 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 4,6,12,13,17 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/25/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

The terminal disclaimer filed on 7/25/2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/677,793 (US 6,969,041) has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 7, 9, 11, 14-16, and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodges et al. (US 5,487,246).

In regard claim 1, Hodges teaches panel system, the panel shows in figure 21 comprising a load bearing face plate having a front face 59 that faces in a forward direction, structure (no numbered but shows in figs. 21, 24) projecting in an opposite, rearward direction from said face plate, and a flexible barrier element 149 mounted on and supported solely by said structure of the same panel in spaced relationship to said front face and said face plate having an outer edge margin. Since Hodges teaches the similar claimed structures thus it would capable of performing the similar functions.

In regard claims 3, 5, (see also rejections from claim 1), Hodges teaches the panel system as stated above and further including an opening (cut out-see figure 21)

disposed inwardly from said outer edge margin and the structure further including a support 150 that positions said barrier element adjacent the opening.

In regard claim 7, Hodges teaches panel system, the panel shows in figure 21 comprising a load bearing face plate having a front face 59 that faces in forward direction, structure 150 projecting in an opposite, rearward direction from said face plate, and a flexible barrier element 149 mounted on said structure in spaced relationship to said front face, said barrier element comprising a brush strip having bristles (col. 10, line 58).

In regard claims 9, 11, Hodges teaches claimed invention for the panel system as stated, wherein said structure having an elongated retaining slot (no numbered but shows in figure 21) within which the brush strip is received.

In regard claim 14 Hodges teaches panel system, the panel shows in figure 21 comprising a forming panel, a brush strip 149 mounted on said panel in such a position that bristles of the brush strip are disposed.

In regard claim 15, Hodges teaches the claimed invention as stated, wherein the forming panel having an outer edge margin, said brush strip being located adjacent said outer edge margin.

In regard claim 16, (see also rejections from claim 1), Hodges teaches the panel system as stated above and further including an opening (cut out-see figure 21) disposed inwardly from said outer edge margin and the structure further including a support 150 that positions said barrier element adjacent the opening.

In regard claims 20-21, Hodges teaches the claimed invention as stated, wherein forming panel including a face plate and a frame secured to and projecting rearwardly from said face plate, said frame including a frame member 150 at an outer margin of the face plate, said brush strip 149 being mounted on said frame member 150 at a location spaced rearwardly from a front surface of the face plate, and said frame member having an elongated slot the receives said brush strip (see figure 21).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges (US 5,487,246).

Hodges teaches the structural elements for the claimed invention as stated above. However, Hodges does not specifically teach the strip projecting generally toward said front face at an acute angle relative thereto. At the time of the invention, it would have been obvious to a person having an ordinary skill in the art to place the strip projecting generally toward said front at an acute angle relative thereto because the strip is flexible member thus it could easily bent at any angle relative to the face for accommodating gaps or spaces.

Allowable Subject Matter

Claims 4, 6, 12, 13, 17 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1, and 3-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Propst teaches panel with flexible member mounted onto.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

CQN


4/12/2006


CARL FRIEDMAN
EXAMINER AU 3635